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## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	10/840,144
Filing Date	05/06/2004
First Named Inventor	Charles Hailey
Art Unit	To Be Assigned
Examiner Name	To Be Assigned
Attorney Docket Number	19240.150 US3

### ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): - Postcard
<input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> Remarks
<input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement		
<input type="checkbox"/> Certified Copy of Priority Document(s)		
<input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input checked="" type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Wilmer Cutler Pickering Hale and Dorr LLP		
Signature			
Printed name	Matthew T. Byrne		
Date	11/12/2004	Reg. No.	40,934

### CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name		Date	11/12/2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Express Mail Label No: EV 526850017 US  
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# NOV 12 2004 U.S. PATENT & TRADEMARK OFFICE FEE TRANSMITTAL for FY 2005

Effective 10/01/2004. Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27

**TOTAL AMOUNT OF PAYMENT** (\$ 280.00)

### Complete if Known

Application Number	10/840,144
Filing Date	05/06/2004
First Named Inventor	Charles Hailey
Examiner Name	To Be Assigned
Art Unit	To Be Assigned
Attorney Docket No.	19240.150 US3

### METHOD OF PAYMENT (check all that apply)

Check  Credit card  Money Order  Other  None

Deposit Account:

Deposit Account Number 08-0219  
 Deposit Account Name Wilmer Cutler Pickering Hale and Dorr LLP

The Director is authorized to: (check all that apply)

Charge fee(s) indicated below  Credit any overpayments  
 Charge any additional fee(s) or any underpayment of fee(s)  
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

### FEE CALCULATION

#### 1. BASIC FILING FEE

Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code (\$)	Fee Code (\$)		
1001 790	2001 395	Utility filing fee	
1002 350	2002 175	Design filing fee	
1003 550	2003 275	Plant filing fee	
1004 790	2004 395	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
<b>SUBTOTAL (1) (\$)</b>		<b>0.00</b>	

#### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	-20** =	X	=	Fee from below	Fee Paid
Independent Claims	- 3** =	X	=		
Multiple Dependent				0	= 0

Large Entity	Small Entity	Fee Description
Fee Code (\$)	Fee Code (\$)	
1202 18	2202 9	Claims in excess of 20
1201 88	2201 44	Independent claims in excess of 3
1203 300	2203 150	Multiple dependent claim, if not paid
1204 88	2204 44	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent
<b>SUBTOTAL (2) (\$)</b>		<b>0.00</b>

\*\*or number previously paid, if greater; For Reissues, see above

### 3. ADDITIONAL FEES

Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code (\$)	Fee Code (\$)		
1051 130	2051 65	Surcharge - late filing fee or oath	65.00
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 430	2252 215	Extension for reply within second month	215.00
1253 980	2253 490	Extension for reply within third month	
1254 1,530	2254 765	Extension for reply within fourth month	
1255 2,080	2255 1,040	Extension for reply within fifth month	
1401 340	2401 170	Notice of Appeal	
1402 340	2402 170	Filing a brief in support of an appeal	
1403 300	2403 150	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,330	2453 665	Petition to revive - unintentional	
1501 1,370	2501 685	Utility issue fee (or reissue)	
1502 490	2502 245	Design issue fee	
1503 660	2503 330	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 790	2809 395	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 790	2810 395	For each additional invention to be examined (37 CFR 1.129(b))	
1801 790	2801 395	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	
Other fee (specify) _____			
*Reduced by Basic Filing Fee Paid			
<b>SUBTOTAL (3) (\$)</b>		<b>280.00</b>	

(Complete if applicable)

<b>SUBMITTED BY</b>			
Name (Print/Type)	Matthew T. Byrne	Registration No. (Attorney/Agent)	40,934
Signature	Date 11/12/2004		

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: Charles Hailey      Examiner: To be assigned  
U.S. Serial No.: 10/840,144      Art Unit: To be assigned  
Filing Date: May 6, 2004      Confirmation No.: 7402  
For: METHOD AND APPARATUS FOR MATERIAL  
IDENTIFICATION USING CHARACTERISTIC  
RADIATIVE EMISSIONS

Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO NOTICE TO FILE MISSING PARTS  
OF NON-PROVISIONAL APPLICATION**

Dear Sir:

This Response is submitted in reply to the Notice to File Missing Parts of Non-provisional Application (the "Notice") that was mailed on July 12, 2004 (copy enclosed) in connection with the above-identified patent application. A reply is due November 12, 2004. Accordingly, this Response is being timely filed.

In reply to the Notice, applicants submit herewith an executed Combined Declaration and Power of Attorney. Because the Combined Declaration and Power of Attorney names over ten registered patent attorneys and patent agents, in accordance with 37 CFR 1.32(c)(3) please designate the following ten attorneys and agents as having power of attorney in this case:

- 1) Alter, Scott M., Reg. No. 32,879
- 2) Bergman, Jeffrey P., Reg. No. 51,463
- 3) Byrne, Matthew, Reg. No. 40,934
- 4) Donner, Irah H., Reg. No. 35,120
- 5) Joslyn, Kristin M., Reg. No. 47,692
- 6) Kanabe, George L., Reg. No. 51,858
- 7) Kim, William, Reg. No. 53,127
- 8) Langer, Matthew E., Reg. No. 36,343
- 9) Love, Jane M., Reg. No. 42,812
- 10) Walpert, Gary A., Reg., No. 26,098

Applicant: Charles Hailey

Serial No.: 10/840,144

Filed: May 6, 2004

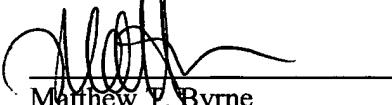
Page 2 of 2

Applicants hereby authorize the Director to deduct \$65.00, the small entity fee under 37 C.F.R. § 1.16(e) for filing a late declaration, and the \$215.00 fee for a Two-Month Extension of Time under 37 C.F.R. § 1.17(a)(2) from Deposit Account No. 08-0219.

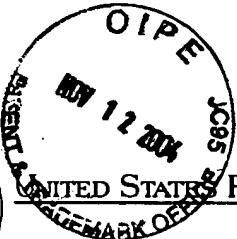
No additional fees are deemed necessary at this time. However, the Director is hereby authorized to charge any additional fees due in connection with this Response, or credit any overpayment, to Deposit Account No. 08-0219.

Date: 11/12/04

Respectfully submitted,

  
Matthew Y. Byrne  
Registration No. 40,934  
Attorney for Applicants

Wilmer Cutler Pickering Hale and Dorr LLP  
399 Park Avenue  
New York, New York 10022  
Tel: (212) 230-8800  
Fax: (212) 230-8888



NOV 15 2004

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## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/840,144	05/06/2004	Charles Hailey	019240.150 US3

28089  
WILMER CUTLER PICKERING HALE AND DORR LLP  
300 PARK AVENUE  
NEW YORK, NY 10022

CONFIRMATION NO. 7402  
FORMALITIES LETTER

\*OC000000013201594\*

Date Mailed: 07/12/2004

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted***Items Required To Avoid Abandonment:**

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.  
*A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.*
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

**SUMMARY OF FEES DUE:**Total additional fee(s) required for this application is **\$65** for a Small Entity

- **\$65** Late oath or declaration Surcharge.

Replies should be mailed to: Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

11/16/2004 FFANIA2 00000061 080219 10840144

02 FC:2051 65.00 DA

*A copy of this notice **MUST** be returned with the reply.*

*Janayle Asrat*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE